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RELATIONS BETWEEN THE SENATE AND
EXECUTIVE DEPARTMENTS.

S P E E C H

OF

HON. JOHN A. LOGAN,

OF ILLINOIS,

IN THE

SENATE OF THE UNITED STATES,

FRIDAY, MARCH 26, 1886.

WASHINGTON.

1886.

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Relations between the Senate and Executive Departments.

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OF

HON. JOHN A. LOGAN.

The Senate having under consideration the resolutions reported by Mr. EDMUNDS, from the Committee on the Judiciary, relative to the refusal of the Attorney-General to furnish copies of certain papers—

Mr. LOGAN said:

Mr. PRESIDENT: I shall detain the Senate but a very short time. What I shall have to say will be confined to one point. I have listened with very great pleasure to the arguments made on both sides of the questions involved. The discussion has been both able and instructive.

I must say, however, sir, without intending to criticise the honorable Senators on either side, that they have traveled over and through the domain of the Constitution, of politics, the arts and sciences, and everything known to human understanding excepting the real question presented to the Senate for its consideration by this resolution. Mr. President, I must confess that I can not understand what the question as to the power the President has under the Constitution to remove from office has to do with the question as to whether certain papers are public or private documents, and shall be furnished or not to the Senate for its inspection and use. I call the attention of my friend, one of the Senators from Indiana [Mr. VOORHEES], who spoke yesterday (and I must say, by way of compliment to him, that he made a very able and very eloquent speech), to the fact that a great portion of his speech was devoted to a reply, as he said, to certain stump-speeches that had been made about one year and a half ago before the American people. In fact he roamed through the Territories, through railroad legislation, and through the Constitution of the United States in order to find some reason based upon something said by some stump orator as a justification for the refusal of the Attorney-General to comply with the resolution of the Senate in reference to submitting documents now on file in his office. Will any Senator tell me what the question as to how Representatives voted on chartering the Union Pacific Railroad has to do with the question as to whether the Attorney-General shall send papers to the United States Senate or not? Will the Senator from Indiana tell me what the question he discussed—as to whether rebel claims shall be paid—has to do with this question before the Senate, or whether some man has, in his extreme views, insisted that the Constitution will be so changed that after a while the slaves will be paid for? Will any one tell me what

that has to do with the question before the Senate? All of these propositions he discussed on yesterday, I presume, in reply to some speech made long ago in his State in some political contest.

Mr. President, I now desire for a moment to draw the attention of the Senate to what I understand to be the issue between the Attorney-General and the Senate. It is this: The resolution passed by the Senate requesting the Attorney-General to respond thereto was in the following language:

Resolved, That the Attorney-General of the United States be, and he hereby is, directed to transmit to the Senate copies of all documents and papers that have been filed in the Department of Justice since the 1st day of January, A. D. 1885, in relation to the management and conduct of the office of district attorney of the United States of the southern district of Alabama.

This, sir, is a plain, simple direction to the Attorney-General, to do what? To send to the Senate papers and documents that have been filed in his office, in reference to what? In reference to the conduct of the office of the district attorney for the southern district of Alabama. Will any man tell me what the Pacific railroads have to do with this, or what this resolution has to do with paying rebel claims, or what it has to do with the power of the President to remove persons from office under the Constitution? It is a plain, simple proposition. Has the Senate of the United States the right to ask from the Executive Departments of the Government documents and papers filed on any subject in a Department of the Government? That is all there is of it. That is the question before the Senate.

Sir, I shall direct my remarks to this particular point. As I understand the structure of this Government, it is based upon the will of the people as the foundation and corner-stone; and the will of the people is to be ascertained on a given subject for the purpose of directing the Government in a certain line or channel. How are the people of this country to be informed on subjects connected with the Government unless they shall, through their representatives, have the opportunity of obtaining information? Information of what character? Why, sir, in reference to legislation, information in reference to appointments, information in reference to suspensions, information on any subject whatever that comes before the Congress of the United States and which the Congress of the United States may desire for the purpose of aiding or assisting them in performing the duty the people have imposed upon them. Such information they are entitled to have. That is all, sir. That is the inquiry.

Now, then, what is the response? The response of the Attorney-General, moving away from the question presented to him by the Senate, or at least partially so, is in these words:

The papers and documents—

And that is the language of the resolution—

The papers and documents which are mentioned in the said resolution, and still remaining in the custody of this Department, having exclusive reference to the suspension by the President of George M. Duskin, the late incumbent of the office of district attorney of the United States for the southern district of Alabama, it is not considered that the public interest will be promoted by a compliance with said resolution.

The resolution, as I said, inquired for papers in reference to the conduct of the office. He says the papers pertain solely to the suspension of the officer, and, therefore, the request is declined because it is not

compatible with public interest. The President of the United States follows this up, and he says:

I regard the papers and documents withheld, and addressed to me or intended for my use and action, purely unofficial and private, not infrequently confidential, and having reference to the performance of a duty exclusively mine.

To this statement I desire to direct the attention of Senators. The President by this declaration says that he is to be the judge of the class of papers that comes into the Departments, whether private and confidential or of a public nature; in other words, that the Senate is not permitted to be the judge as to what it may require, but that he is to judge himself as to the character of the documents it is to be permitted to examine; in other words, he will be the judge for the Senate as to what they are to do or what they are to examine as well as judge for himself.

Let us test that question for a moment and see whether he is correct. He goes on further and says that he may make such use of the papers as he sees proper; that he merely deposited them for safe-keeping in the Departments of the Government. Let us analyze this for a moment. He receives the papers, he calls them confidential, but he deposits them in one of the Departments. They go into a Department to be examined by clerks and other persons, and yet they are confidential to him. The very moment that he decides to place the papers in the Department and have them stamped as files of the Department that moment he decides the question himself and the Senate need not make the decision. The decision is made by him. The moment the papers pass out of his hands into a public depository as documents he decides that they are public papers.

Mr. EDMUNDS. And that is the way he sends them to us here.

Mr. LOGAN. Certainly; here is one of his references of these papers to the Departments:

The within communication is respectfully referred to the Attorney-General.
By direction of the President.

DANIEL S. LAMONT,
Private Secretary.

Does he say that this confidential letter is handed to the Attorney-General that he may put it in some private place and keep it for him, keep it out of the pigeon-holes or away from the Department papers? No, sir; but it is referred for what purpose? For filing as a public document, and it becomes a public document the moment it passes from his hands into the hands of the Attorney-General for the files.

Mr. EDMUNDS. It is purely an official act.

Mr. LOGAN. Certainly, sir. It is purely an official act, and none other, done by the President, not in confidence, but by order of the President of the United States, signed by his private secretary, Mr. Lamont. Let me ask the friends on the other side of this Chamber what does the President of the United States mean when he says, "I consider them in no proper sense as upon the files of the Department;" yet they are on the files of the Department, "but deposited there for my convenience, remaining still completely under my control." Let me ask Senators on the other side how long are they to remain there as his private papers? Does he mean that he himself has control of these papers, that he can send for them to-morrow and box them up and send them to his home in New York? Is that what he means, or does he mean that he will let them remain until he retires from the Presidential chair, and then he will take them with him? Is that

what he means, or does he mean that when he retires he will leave them there as his private papers under the control of the Department of the Government? Is that what he means? Can he do that, and have those papers kept by the Government for his examination at his pleasure? Is that it?

What does he propose to do with the papers? What do we propose that he shall do with them? Will you keep them there for the next ten, fifteen, or twenty years as the private papers of Grover Cleveland, that he may come and call upon the Government at any time to deliver up to him the documents because they are his private papers? Is that the proposition? If so, my judgment is that the President of the United States has in his message to Congress made a suggestion by way of a claim of a power resting in and belonging to him as President that he can not maintain either upon constitutional grounds or that of honest or fair dealing, nor upon logic or fair reasoning.

If the people through their representatives can not have access to the records of the country, on the general theory that they are the source of power, when such records or documents are requested to aid in the performance of a duty incumbent upon them in their co-ordinate capacity, where is such a theory to carry us if it is followed up? We have been told for years by our opponents that the concentration of power was one of our objects, that our theories as well as the character of our legislation proved this to be the design of our party, that this had been increasing and growing from year to year, that the power of the Government was being placed in the hands of the few, that the people were being stripped of their power day by day.

I should like for any Senator to tell me what greater concentration of power has been shown during the existence of this Government than the attempt made by the President of the United States to take into his own hands the right to allow or not the people of this country through their representatives to examine public records, documents, and papers as he sees proper. Suppose the man guilty of fraud; suppose he has been guilty of embezzlement; suppose he is charged with any offense; will the President of the United States say, when we send for the papers to examine into the conduct of his office to see how it has been managed because he has suspended this man, the Congress of the United States shall not examine the papers? Will you say that? Suppose the Senate of the United States organizes a committee of investigation to-day and calls upon the President of the United States, the Attorney-General, the Secretary of the Treasury, the Postmaster-General, or any other head of a Department, for papers in connection with the case either for or against the man accused, will it be said that the Senate of the United States can not have those papers? If so, why refused? Would it be on the ground that they are private documents? Is that the ground?

If this theory is to be carried out, the head of a Department might suppress papers that would convict his friends; he might suppress papers that would convict criminals; he might suppress papers that would convict himself if he be corrupt enough, and this merely upon the ground that they were private papers and could not be given out. Suppose papers charging men with violations of law, charging them with robbery, with theft, with murder, with arson, no matter what crime, came to the Secretary of the Treasury as a letter directed to him making these charges, because the letter is written to him and not officially, but is filed with the papers in the archives of the Government, when the

Senate calls on him for those papers he says, "It is a private letter. I shall not give it to the Senate or the Congress of the United States," though on the files. Would not that be covering up crime under the guise of private papers on the ground that they will not deliver documents to the Congress of the United States that might involve in criminal proceedings some individual who happens to be an official of the Government and friend of the Secretary?

Without desiring to criticise the President of the United States, except in a proper manner, I would ask why this message of his was sent to the Senate of the United States? He was not asked except as he considers the Department of Justice, as of course it is, a part of the executive branch of the Government, and he wishes himself held responsible for all the papers. May we ask if he could have sent the message to Congress for the purpose of covering the acts of the heads of Departments of the Government? So the accusation must be against him, the call must be made to and through him by the Senate, so that his permission shall be given before any papers can be transmitted to either branch of Congress, that through him and him alone should papers be received or transmitted to the Senate or to the House of Representatives or to both.

Was it through him that papers which have been sent here and read in debate were transmitted? I will not so charge, as it could not be that the President would consent to such a practice as we have seen indulged in on this floor, of taking papers from the files of Departments to be read here by Senators, when refused to the Senate as a body.

I desire to call the attention of the Senate to the point which is covered by that. It is this: That an order which the President might give to the heads of Departments must be obeyed the same as a military order, so that a call made upon the head of a Department for any paper should be submitted to him before the paper shall be transmitted to Congress; that he alone, as President of the United States, shall judge of every paper that might be transmitted to Congress as to whether it is a document proper to be transmitted or not; that he should be the sole judge to determine that question, taking it out of the hands of the heads of Departments, and depriving the Congress of the United States of the right to judge as to whether a paper is a document of such character as to make it of importance in aiding the Senate to form a proper conclusion as to its duty or not?

As I have said, I do not wish to discuss other than this one point. It is too late in the day if I desired, and I have no desire, to do so. I wish, however, to refer briefly to one suspension of an officer, one case in my State, that of a man suspended from office who was in Andersonville prison for over one year. He has written many letters to me asking that his case might be investigated to see why he was suspended. He believed that he had been accused of some offense. On general principles I wrote to him that he was entitled to know what charges were made against him.

I have since found that there were no charges made against him, although he was suspended for "cause." Yet no cause exists. Pretense, of course, for suspension of officers where none exists of a political character is a hypocrisy that ought not to be practiced upon the American people. It is not an honest statement, it is not just, and is merely dodging the question.

If I have the power to suspend a man from office where he has per-

formed no act that is in violation of law, but has performed the duties of the office properly; if I suspend him under these circumstances and state that I do it for "cause," I do that man an injury, an injustice. I do it improperly. Why? As we understand the law, or at least as I do, "cause" is some act that the man does which renders him either disqualified in some sense, either by a wrong act in office or some failure to perform his duty, or some improper conduct in office. That is "cause" for it. It is not that a man entertains one class of political sentiments or another. That is not understanding of the law in the use of the term "cause." The law never contemplated that if a man was a Democrat or a Republican that this was to be understood as "cause" in law for his suspension from office, but that the "cause" should grow out of his official acts in office; in other words, the manner in which he performed the duties thereof. So when the President sends a message to the Senate stating that a person is suspended for cause it means that the person has performed some act or failed to perform some act in office which renders him an unfit and improper man to hold the office.

So that when the President makes the statement against a person charging his suspension for "cause" before the Senate, which means wrongdoing, the person is entitled to a hearing. In other words, he is entitled to have his answer made to the charge that his reputation may not be made to suffer wrongfully. If, as has been said, he was suspended because of his party fealty, that is one thing. If the President wants to suspend for that reason he can certainly do it, and if he sends the name of parties here in place of others suspended for that reason or for no reason, I, for one, shall not take exception, if the man nominated is qualified, and is an honest and proper man.

In speaking of the hypocrisy of this thing, I desire to call attention to but one letter from the Postmaster-General. I have many. One, however, will answer my purpose. I refer to a letter written to the President of the United States and answered by his Postmaster-General. I will read it:

MARTINSBURG, W. VA., June 17, 1885.

The President:

I am informed that charges have been, or are to be, preferred against me as postmaster at this place. While I hold a commission which will not expire until February, 1888, and am willing to devote my service to the best interest of the office, yet if it is your desire to appoint another to my place I shall cheerfully tender my resignation at any time that you may indicate.

I was appointed to office under a Republican administration, and have given that party my earnest support, notwithstanding I have always accorded to others the same right to their political opinions that I demand for myself. I ask that you will accord me the opportunity to answer any charges that shall be made against my character. I am willing to resign my office if it is your pleasure, but I am not willing to have charges made against my good name without an opportunity to repel them.

Very respectfully,

GEORGE F. EVANS,

Postmaster, Martinsburg, Berkeley County, West Virginia.

Hon. GROVER CLEVELAND,
Washington, D. C.

The President, through his Secretary, writes the following letter:

EXECUTIVE MANSION, *Washington, June 20, 1885.*

DEAR SIR: The President directs me to acknowledge the receipt of your letter of the 17th instant, and to inform you that it has been referred for the information of the Postmaster-General.

Very respectfully,

DANIEL S. LAMONT,
Private Secretary.

GEORGE F. EVANS, Esq.,
Martinsburg, W. Va.

That letter was written to the President by the postmaster at Martinsburg saying that he would tender his resignation if the President desired him to do so. It was "referred" to the Postmaster-General. For what? For the purpose of the Postmaster-General taking such action as he should deem proper, or no action at all if he saw proper. Will any one say that that is a private letter which the President could not send to the Senate on account of its being of a confidential nature? Suppose he did not accept his resignation? Suppose he had said, "He is a good man, I shall retain him in office;" it was a private letter to the President just as much as any letter that is written to him on the subject of an office. Yet it is referred, and referred for what purpose? We will see in a moment. The Postmaster-General takes the letter and examines it. What does he do? He writes as follows:

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., November 10, 1885.

SIR: Having under consideration the propriety of a change of postmaster at Martinsburg, your letter of the 17th of June last, to the President, came to my attention, in which you say: "If it is your desire to appoint another to my place I shall cheerfully tender my resignation at any time that you may indicate."

The President indicates nothing; he merely refers the letter to the Postmaster-General. The Postmaster-General says further:

Observing this letter and because of the manliness of tone and sentiment exhibited by it, not altogether common in communications from persons so situated, I desire to say to you that no charges are made against your personal character or official conduct, but only such as relates to your political activity as a supporter of the Republican party, and I very cheerfully comply with your request and tender you, with an intimation that an early reply will be expected, the opportunity to lay down your public office by resignation.

Yours, truly,

WM. F. VILAS, *Postmaster-General*.

GEORGE F. EVANS,
Postmaster, Martinsburg, W. Va.

I ask any Senator here why should a letter of that character be kept from the Senate? There was a man who resigned, but suppose he had not resigned he would have been suspended for cause; and yet the Postmaster-General says there are no charges against him so far as his personal or official character is concerned, but he was a Republican; therefore he will accept his resignation. The President under his statement would refuse to send a letter like this to the Senate; he would say that it was a personal or private letter. Suppose this man had written merely to learn if charges were preferred against him and had not tendered his resignation, would that have changed its character when referred to the Postmaster-General by the President? Would it not have become a part of the files of the Department?

Surely, Mr. President, this would be so.

I wish to call attention to an appointment, or I should say a nomination, in my State. I mention the fact for the reason that this country has been flooded with letters and proclamations and messages on the subject of reform in the civil service, also as to the character of the men who should hold office. I present this merely as a companion-piece to the one mentioned by the Senator from Indiana [Mr. HARRISON].

This man is in a post-office under this administration in one of the larger cities in the State of Illinois. He was dismissed from the service of the United States as a colonel because of making false musters in his regiment. He came home and entered into business with a part-

ner, committed frauds upon the Government, was indicted in the United States court for so doing, and was acquitted by interposing the plea of the statute of limitations. I went to the President and made this statement to him, yet he was commissioned and his name sent to the Senate after my statement. How it came about I do not know, but such is the fact.

Mr. EDMUNDS. And you assured him that you had proof of record, too.

Mr. LOGAN. I told him that I had the record; I have it here, certified by the clerk of the circuit court of the United States. I have no comment to make. His name ought not to have been sent to the Senate. I stated this to the President so that he might not be commissioned, and that his name should not be sent to the Senate. It was done, however.

Mr. FRYE. Has he been confirmed?

Mr. LOGAN. No, sir, he has not been confirmed, and will not be if I can prevent it.

Mr. President, a word more. I believe in the doctrine that this Government is a government of the people, by and for them; that the representatives of the American people are entitled to have information that will guide them in the performance of their duty, and the man, the party, or the set of men who shall undertake to keep from the people, or deny them that knowledge in reference to the manner in which their servants are performing their duty, will have a short political life. I believe not only that the people are entitled to know, but if they desire they ought to have the right to examine any record or public document in the Departments of the Government, by and through their representatives in Congress, when called for in a proper way.

It is on that theory and on that principle that I have been in favor, and am yet, of the doors of the Senate being open when matters of nominations are to be acted upon, so that the country may know what character of men are to be appointed to office; and if for nothing more than for the purpose that the people of this country should have an eye upon everything that their public servants do, unworthy men would not ask to have their characters examined in public. Men only whose characters could stand in the sunlight and bear inspection by the people would dare to have their names brought before the Senate for its consent to their appointment.

I am for the people of this country having an opportunity to assist their public servants in the performance of their duties by a knowledge of that which their representatives may do.

So, too, in reference to the course of the President, in any of the Departments, in the performance of this duty, or in connection with anything pertaining to their offices which might aid in bringing about intelligent legislation, or in connection with the character of any official or any one who is to become an official, whenever they close the box on documents or papers of a public or official character they are denying to the people of this country from whom power comes, and claiming it in themselves, to be dealt out to the people as they shall deem right, they being the judges.

Sir, this Government is not a government where power descends from the throne to the people as the throne may be disposed to parcel it out; but it is a government where the power comes up from the people to their representatives, to their Cabinet ministers, and to their President. Only in that way do they obtain power, and only through that will

should it be exercised; whenever any one in this country arrogates to himself the power exercised by a Czar in withholding from the people or their representatives any right or privilege the theory and principles of our Government are violated and our people impeded in moving forward in our growing character as a free people.

So, sir, in regard to the President, for whom I have great respect. He has mistaken his power. He is mistaken in the idea that as President he is more than an American citizen who has been placed there to do the will of the American people. He is merely the head to perform certain functions conferred upon him by the Constitution and the laws of the country, and those are to be performed in accordance with the will of the people whom he represents. When he fails to do that he fails as their Chief Magistrate.

I do not know what is to be the final result of this question. "You may pass these resolutions," said a Senator yesterday, "but when you do that what have you accomplished? You can not force the President to send these papers." Well, sir, that is true; with a House of Representatives against the theory that we act upon, there is no remedy for the present; but we can do this, and we will do it: we will bring the fact to the minds of the American people that no man can be a Cæsar in this country; that this is a Government where the people can and will be heard. It may be deferred for a short time, but only for a short time. When the people are or ever have been heard in reference to questions where unwarranted power has been attempted by any one in this Government, the people have always repudiated the exercise of that unwarranted power, and I believe they ever will.

If the resolutions are passed and we do not get the papers, what then? We will at least have said to the people in the most emphatic manner that the refusal to comply with the request of the Senate of the United States was such a flagrant violation of the rights of the people, and, in our judgment, so flagrant and unwarranted, that we condemn the act and go before the people and let them decide whether they propose to give up any of their rights as asserted by their representatives. Sir, they have never decided in favor of the exercise of arbitrary power in any case when the question has been made fairly before them.

Mr. President, I have said in this short time all that I desired to say on this one point, and being very anxious to hear the Senator from Vermont, who is certainly more competent to discuss this question than myself, the hour being late, I can not feel satisfied in longer holding the floor.

